

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 201809776	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/02/2018 7:30 PM	Location of Incident: § 87(2)(b) 26th Precinct stationhouse.	Precinct: 26	18 Mo. SOL 2/2/2020	EO SOL 2/2/2020	
Date/Time CV Reported Fri, 11/23/2018 3:54 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/23/2018 3:54 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. LT Kimberly Motto	00000	935360	PB CAS
3. DI Michael Shugrue	00000	923172	PSA 6
4. POM Nikaury Martinez	05565	953062	PSA 6
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kingsley Joachim	18313	950637	PSA 6
2. POM Joshua Escobar	07464	958554	026 PCT
3. POM Deniz Aktas	10316	956373	026 PCT
4. POM Brian Stanton	11683	949693	026 PCT
5. LT Daniel Delaney	00000	945653	026 PCT
6. POM Andrew Chang	09035	963451	026 PCT
7. POM Antonio Castelluccio	04953	963438	026 PCT
8. POM German Geronimo	11218	943293	026 PCT
9. POF Ivis Ayala	26665	941375	026 PCT
10. SGT Joseph McKenna	02208	899573	026 PCT
11. POM Badr Haimoudat	26975	965164	026 PCT
12. POF Daniela Rizzo	17116	961177	PSA 6
13. LT Okelie Bentley	00000	936196	MED DIV

Officer(s)	Allegation	Investigator Recommendation
A. DI Michael Shugrue	Abuse: Deputy Inspector Michael Shugrue entered § 87(2)(b) in Manhattan.	
B. Officers	Discourtesy: At § 87(2)(b) in Manhattan, officers spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
C.DI Michael Shugrue	Abuse: Deputy Inspector Michael Shugrue searched § 87(2)(b) in Manhattan.	
D.DI Michael Shugrue	Abuse: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)	
E.DI Michael Shugrue	Abuse: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)	
F.DI Michael Shugrue	Abuse: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)	
G.DI Michael Shugrue	Abuse: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)	
H.DI Michael Shugrue	Abuse: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)	
I.DI Michael Shugrue	Abuse: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)	
J.LT Kimberly Motto	Abuse: Lieutenant Kimberly Motto entered § 87(2)(b) in Manhattan.	
K.LT Kimberly Motto	Abuse: Lieutenant Kimberly Motto searched § 87(2)(b) in Manhattan.	
L.POM Nikaurys Martinez	Abuse: At the 26th Precinct stationhouse, Police Officer Nikaurys Martinez refused to provide his shield number to § 87(2)(b)	
M. An officer	Abuse: At the 26th Precinct stationhouse, an officer refused to provide his shield number to § 87(2)(b)	

Case Summary

On November 23, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

At approximately 7:30 p.m. on August 2, 2019, § 87(2)(b) his sons § 87(2)(b) and § 87(2)(b) and their friends § 87(2)(b) and § 87(2)(b) got into an argument with a group of unidentified individuals in front of § 87(2)(b) in Manhattan. One of these individuals produced a gun. § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) fled from this individual, running into the building and shutting themselves into the § 87(2)(b) family's apartment, § 87(2)(b). The shooter followed them to the building's third floor and shot at them. The bullets struck the door of the neighboring apartment, § 87(2)(b). Numerous officers responded to the shooting, including Deputy Inspector Michael Shugrue, Lieutenant Kimberly Motto and Police Officer Kingsley Joachim of PSA 6. Deputy Inspector Shugrue summoned ESU to the location and directed them to enter § 87(2)(b) (**Allegation A: Abuse of Authority – Entry of premises, § 87(2)(g)**). The ESU officers allegedly told the apartment's occupants, "Get the fuck down" (**Allegation B: Discourtesy – Word, § 87(2)(g)**). They then forced their way into the apartment and searched through it (**Allegation C: Abuse of Authority – Search of premises, § 87(2)(g)**). The six civilians were removed from the apartment, placed in handcuffs, and transported to the 24th Precinct stationhouse (**Allegations D-I: Abuse of Authority – Retaliatory arrest, § 87(2)(g)**). Afterwards, Lieutenant Motto re-entered the apartment (**Allegation J: Abuse of Authority – Entry of premises, § 87(2)(g)**; **Allegation K: Abuse of Authority – Search of premises, § 87(2)(g)**).

The civilians were questioned about the individual who had shot at them. While at the stationhouse, § 87(2)(b) allegedly asked two officers for their shield numbers: Police Officer Nikaurys Martinez of PSA 6 (**Allegation L: Abuse of Authority – Refusal to provide shield number, § 87(2)(g)**) and an unidentified officer (**Allegation M: Abuse of Authority – Refusal to provide shield number, § 87(2)(g)**) for their shield numbers. The officers allegedly ignored the request. § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were eventually released from custody. They were not arrested or issued summonses. § 87(2)(b) and § 87(2)(b) were both kept in custody when it was discovered that they had unrelated open warrants.

Body-worn camera (BWC) footage was obtained from Lieutenant Daniel Delany, Sergeant Joseph McKenna, Police Officer Brian Stanton and Police Officer Badr Haimoudat. It has been attached in IAs #126-131 (Board Review #1-6) and summarized in IA #135 (Board Review #7). The videos do not depict any of the allegations.

Findings and Recommendations

Allegation (A) Abuse of Authority: Deputy Inspector Michael Shugrue entered § 87(2)(b) in Manhattan.

Allegation (C) Discourtesy: Deputy Inspector Michael Shugrue searched § 87(2)(b) in Manhattan.

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) were interviewed at the CCRB on November 28, 2018. § 87(2)(b) also provided a notarized written statement, prepared on December 8, 2018 (Board Review #8). § 87(2)(b) provided a follow-up telephone statement on September 5, 2019 (Board Review #9). He also participated in a photo-viewing session at the CCRB on November 12, 2019 (Board Review #10-12). The investigation was unable to obtain statements from § 87(2)(b) or § 87(2)(b) regarding this incident (Board Review #3). Police Officer Joachim was interviewed at the CCRB on February 8, 2019. Lieutenant Motto was interviewed at the CCRB on March 12, 2019. Deputy Inspector Shugrue was interviewed at the CCRB on April 11, 2019.

It is undisputed that § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were standing outside of § 87(2)(b) when an unidentified individual produced a firearm. The six civilians fled from the gunman by running into the building, up to the third floor, and then into the § 87(2)(b) family's apartment, § 87(2)(b). The gunman followed them up to the third floor, where he fired his weapon approximately five times. The bullets struck the front door of § 87(2)(b) which is located immediately next to the front door of § 87(2)(b). None of the civilians were injured. Numerous officers, including Deputy Inspector Shugrue, responded to the scene of the shooting. The unidentified occupants of § 87(2)(b) invited the police into their apartment to inspect the damage caused by the bullets. Deputy Inspector Shugrue directed ESU officers to enter § 87(2)(b). The ESU officers entered the apartment, handcuffed the civilians inside, and removed them. The ESU officers did not conduct any searches inside the apartment beyond locating the civilians and taking them outside.

§ 87(2)(b) did not state how much time passed between when he and the other civilians entered his apartment and when the police arrived at the building. He could hear that the officers were speaking to his neighbor in § 87(2)(b) for approximately ten to fifteen minutes. Afterwards, several ESU officers knocked on the door to § 87(2)(b) § 87(2)(b) went to the door while his sons and their friends remained in a bedroom at the rear of the apartment. § 87(2)(b) told the officers to wait. The ESU officers then removed the door's peephole. § 87(2)(b) initially stated that he then opened the door, at which point the officers pushed past him into the apartment. He later stated that the officers forced the door halfway open when they removed the peephole, and that he responded by fully opening the door. Once the ESU officers were inside, they told § 87(2)(b) that everybody had to leave the apartment. They escorted all of the civilians, including § 87(2)(b) out of the apartment.

The other civilians' statements were generally consistent with § 87(2)(b)s, except as noted. § 87(2)(b) stated that the ESU officers responded to the building almost

immediately after the shots were fired. § 87(2)(b) and § 87(2)(b) stated that they arrived about ten to fifteen minutes after the shots were fired. All three stated that the officers knocked on the door to § 87(2)(b) immediately upon arrival. § 87(2)(b) and § 87(2)(b) stated that the officers had forced the door halfway open before § 87(2)(b) opened it. § 87(2)(b) made no mention of the officers doing this.

Deputy Inspector Shugrue stated that the incident was initially reported to 911 by two separate callers: the resident of § 87(2)(b) and an unidentified off-duty officer who was inside § 87(2)(b) at the time of the shooting. Deputy Inspector Shugrue was notified of the 911 calls through the “LMSI” system, which sent him an SMS message summarizing the calls. Once he was informed of the shooting, Deputy Inspector Shugrue contacted Lieutenant Motto, who had already responded to the location. She told him that there were four bullet holes in the door of § 87(2)(b). Deputy Inspector Shugrue traveled to the location himself, arriving approximately ten minutes later. He found that there were also five shell casings on the floor of the hallway. There was no blood in the hallway. The occupant of § 87(2)(b) stated that she had seen somebody shooting at a group of six civilians in the hallway. The civilians retreated into § 87(2)(b). She did not know if any of the civilians were struck by a bullet before entering § 87(2)(b). Deputy Inspector Shugrue was concerned that one of the civilians in § 87(2)(b) might have been injured in the shooting and required medical attention. He also recalled that two people who reside in the apartment, § 87(2)(b) and § 87(2)(b), had been involved in separate, non-fatal shootings at § 87(2)(b) during 2017. Deputy Inspector Shugrue, Lieutenant Motto and several unidentified officers knocked on the door to § 87(2)(b) and spoke to at least one of the civilians through the front door. This individual replied that he was not going to open the door and told the officers to leave. The officers asked if anybody was injured but received no response. Since the civilians refused to cooperate, Deputy Inspector Shugrue contacted ESU to have them forcibly enter the apartment and search for wounded civilians. Several unidentified ESU officers arrived approximately ten to fifteen minutes later. Deputy Inspector Shugrue observed the ESU officers’ actions from the hallway, approximately twenty feet away from the door to § 87(2)(b). The ESU officers knocked on the door and told the civilians inside to open it. When the civilians did not comply, the ESU officers removed the door using a drill and entered the apartment. Deputy Inspector Shugrue did not accompany them inside. Approximately ten to fifteen minutes later, the ESU officers emerged with the six civilians in handcuffs. None were injured. Deputy Inspector Shugrue ordered Lieutenant Motto to secure the location to make sure nobody went inside and to get NYCHA to repair the damage to the door. He denied that any officers entered the apartment beyond the ESU officers.

Lieutenant Motto’s, Police Officer Joachim’s and Police Officer Martinez’s statements were generally consistent with Deputy Inspector Shugrue’s statement, except as noted. Police Officer Joachim erroneously identified the apartment where the bullets struck as § 87(2)(b), rather than § 87(2)(b). While Police Officer Joachim corroborated Deputy Inspector Shugrue’s claim that the occupant of § 87(2)(b) stated that the civilians entered § 87(2)(b) after the shots were fired, Lieutenant Motto stated that the occupant told her that the civilians entered § 87(2)(b) before the shots were fired. Police Officer Martinez was not aware of any officers speaking to the occupant of § 87(2)(b). Police Officer Joachim did not know who made the decision to call ESU. Lieutenant Motto, Police Officer Joachim and Police Officer Martinez all waited inside § 87(2)(b) when the ESU officers entered § 87(2)(b). They did not see how

the ESU officers entered § 87(2)(b) They did not observe any damage to the door to § 87(2)(b) after ESU removed the civilian occupants.

ICAD event #§ 87(2)(b) was generated for this incident (Board Review #14). It records that at 9:32 p.m. on August 2, 2018, a female caller stating that she heard several gunshots in a hallway at § 87(2)(b) At 9:34 p.m., an off-duty officer reported shots being fired at the same location. The officer reported that the perpetrator ran up the stairs. At 9:38 p.m., ESU was dispatched to the location. At 9:58 p.m., the commanding officer of PSA 6 requested that ESU respond to the location to investigate possible victims in § 87(2)(b)

None of the BWC footage depicted either the shooting or the officers entering § 87(2)(b) Sergeant McKenna's footage depicts him approaching § 87(2)(b) after the shooting but prior to the entry into § 87(2)(b) (Board Review #2). The video shows the occupant of § 87(2)(b) inviting Sergeant McKenna and several other officers into her apartment to show them the damage caused by the bullets. The video ends while Sergeant McKenna is in the apartment speaking to its occupant. She is not heard on Sergeant McKenna's video discussing the civilians in § 87(2)(b)

Officers may enter a private residence without a search warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury. Three factors must be in place to justify a warrantless entry on these grounds. First, the police must possess reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance to protect life or property. Second, the search must not be primarily motivated by an intent to make an arrest or seize property. Third, there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. People v. Musto, 106 A.D.3d 1380 (App. Term, 3rd Dept., 2013) (Board Review #15).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (B) Discourtesy: At § 87(2)(b) in Manhattan, officers spoke discourteously to § 87(2)(b)

During his initial complaint, § 87(2)(b) stated that when the ESU officers first knocked on the front door of § 87(2)(b) one of the officers called out through the door, stating, “Open the effing door.” When asked to clarify the officer’s exact words, § 87(2)(b) stated that he did not recall if the officer used profanity while making this statement. During his sworn statement, § 87(2)(b) again stated that he did not recall if the officer used profanity.

In both his written statement and his sworn statement, § 87(2)(b) denied that § 87(2)(b) spoke to any officers through the front door. He stated that § 87(2)(b) opened the door for the ESU officers. When the officers then entered, one of them shouted, “Get the fuck down!” § 87(2)(b) did not allege that officers used any other profanity during the incident.

§ 87(2)(b) and § 87(2)(b) heard the ESU officers calling through the front door, telling § 87(2)(b) to open it. They did not recall hearing any officers use profanity.

All of the officers who were interviewed denied that they or any other officers used profanity during the incident.

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Allegation (D) Abuse of Authority: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)

Allegation (E) Abuse of Authority: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)

Allegation (F) Abuse of Authority: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)

Allegation (G) Abuse of Authority: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)

Allegation (H) Abuse of Authority: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)

Allegation (I) Abuse of Authority: At § 87(2)(b) in Manhattan, Deputy Inspector Michael Shugrue arrested § 87(2)(b)

It is undisputed that the six civilians who were handcuffed and removed from § 87(2)(b) were taken into police custody. They were transported to the 26th Precinct stationhouse and held there in holding cells for several hours. During this time, detectives from the 26th Precinct Detective Squad questioned each of the civilians individually about the shooting. After they were taken into

custody and lodged at the stationhouse, § 87(2)(b) and § 87(2)(b) were found to have open warrants for matters unrelated to the shooting and were subsequently arrested for them. The other civilians were released without being arrested or issued summonses.

It is also undisputed that several individuals called 911 to report the shooting. One of the callers identified himself as an off-duty NYPD officer. The investigation was unable to identify this officer. The off-duty officer and at least one other civilian provided descriptions of the shooter to 911.

§ 87(2)(b) is a black male. He stated that he was wearing a white T-shirt and red shorts at the time of the incident. § 87(2)(b) is a Hispanic male. He did not indicate what clothes he wore at the time of the incident. None of the other civilians described how § 87(2)(b) or § 87(2)(b) were dressed.

Deputy Inspector Shugrue stated that the civilians were transported to the stationhouse so that they could assist police investigators in identifying the shooter. After the civilians left § 87(2)(b) an unidentified officer told Deputy Inspector Shugrue that they spoke to an off-duty police officer who had called 911 to report the shooting. Deputy Inspector Shugrue did not identify the off-duty officer. He was uncertain of who the officer who spoke to him about the off-duty officer was, but believed that it was Lieutenant Motto. The officer who spoke to the off-duty officer told Deputy Inspector Shugrue that the off-duty officer had observed a black male wearing a red shirt run past him while holding a gun. Deputy Inspector Shugrue never spoke to the off-duty officer himself. Deputy Inspector Shugrue noted that § 87(2)(b) was a black male and was wearing a red shirt. Based on this resemblance to the off-duty officer's description, Deputy Inspector Shugrue came to suspect that § 87(2)(b) might have been involved in the shooting, and that the other civilians who had been in § 87(2)(b) with § 87(2)(b) might have been accessories to the shooting. No other factors contributed to this suspicion beyond § 87(2)(b)'s attire. As a result of this suspicion, the civilians were held in custody at the stationhouse as suspects. Deputy Inspector Shugrue did not travel to the stationhouse himself and did not participate in the civilians' questioning. At some point later in the evening, an unidentified officer informed Deputy Inspector Shugrue that investigators had reviewed VIPER video footage from § 87(2)(b). The footage showed both § 87(2)(b) and a separate, unidentified individual who was carrying a firearm. Both § 87(2)(b) and the shooter were wearing red shirts. Since the video established that § 87(2)(b) and the shooter were different people, § 87(2)(b) and the other civilians were cleared of suspicion. § 87(2)(b) and § 87(2)(b) were kept in custody due to their unrelated warrants. § 87(2)(b) and the other civilians were released from custody. Deputy Inspector Shugrue did not recall who informed him of the VIPER footage, but believed that it was Lieutenant Motto, Police Officer Joachim, or an unidentified investigator from the 26th Precinct Detective Squad. Deputy Inspector Shugrue did not view the footage himself.

Lieutenant Motto's statement was generally consistent with Deputy Inspector Shugrue's statement, except as noted. She also stated that the civilians were already in the process of being transported to the 26th Precinct stationhouse when the unidentified off-duty officer provided a description of the shooter. She stated that the off-duty officer described the shooter as a male wearing a white shirt and red shorts. This description matched to § 87(2)(b) not § 87(2)(b). Based on this information, along with the fact that the civilians had refused to open the

door for the police, led Lieutenant Motto to suspect that the civilians were involved in the shooting. Lieutenant Motto also stated that the civilians were cleared of suspicion when the footage showed that the shooter was dressed in a similar manner to one of the civilians from the apartment.

Police Officer Joachim and Police Officer Martinez stated that the civilians were transported to the stationhouse because investigators from the 26th Precinct Detective Squad wanted to interview them about the shooting. Neither officer mentioned receiving a description of the shooter, or if any of the civilians were suspected of being the shooter. Police Officer Joachim noted, though, that the six civilians were initially arrested but that Lieutenant Motto directed him later in the evening to void the arrests. He did not state why the civilians were arrested or why the arrests were voided.

Arrest reports were prepared for all six civilians, but were subsequently voided (Board Review #16). The investigation was able to obtain unsealed copies of § 87(2)(b) s and § 87(2)(b) s voided arrest reports, which were prepared by Police Officer Joachim. Both reports state that § 87(2)(b) and § 87(2)(b) were charged with § 87(2)(b), § 87(2)(a) 160.50. The narratives state that they were initially apprehended after the police received a report of shots being fired. They were subsequently released when video evidence showed that an unidentified eyewitness had misidentified them as suspects. § 87(2)(b) s arrest report shows that he was wearing red shorts and a white T-shirt at the time of the incident.

The ICAD event generated for this incident records that multiple individuals called 911 to report the incident (Board Review #14). An unidentified caller stated that there was a black male wearing a white shirt and red shorts carrying a firearm. Another caller identified himself as an off-duty police officer named “§ 87(2)(b) with shield number § 87(2)(b). A review of the CTS database found no officers matching this information. This caller described the shooter as a black male wearing a white shirt and black shorts. He also stated that the shooter ran up a staircase inside § 87(2)(b).

§ 87(2)(b) s arrest report confirmed that he was wearing a white shirt and red shorts. Since the ICAD event indicates that at least one of the people who called 911 described the shooting suspect as a black male wearing a white shirt and red shorts, the investigation determined that § 87(2)(b) rather than § 87(2)(b) was identified as the potential shooting suspect among the six civilians. The investigation also determined based on the ICAD event that the suspect was described by the off-duty officer as having run up a staircase inside § 87(2)(b).

Officers may temporarily detain an individual in the course of an investigation to obtain information from them to confirm or dispel suspicion of their involvement in criminal activity. Such a detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop, and the methods employed to investigate the individual’s involvement should be the least intrusive reasonably available. Transporting a suspect to another location, including to a police station, does not necessarily escalate this detention into an arrest. When an individual is handcuffed, searched, and placed into a police vehicle for transport, however, the action is considered to be an arrest. An officer requires probable cause to believe that an individual has

been involved in the commission of a crime to arrest them. People v. Robinson, 282 A.D.2d 75 (App. Term, 1st Dept., 2001) (Board Review #17).

In People v. Campbell, the police approached an individual suspected of a crime because that individual matched a general description of the suspect and was found in close proximity to the scene of the reported crime. That individual then fled from the police and discarded a coat. These actions, taken together, provided the police with reasonable suspicion to believe that the individual was involved in the reported crime. This suspicion did not ripen into probable cause to arrest that individual, however, until the police recovered a firearm from the coat that the individual discarded. People v. Campbell, 155 A.D.3d 412 (App. Term, 1st Dept, 2017) (Board Review #23).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

Allegation (J) Abuse of Authority: Lieutenant Kimberly Motto entered § 87(2)(b) in Manhattan.

Allegation (K) Abuse of Authority: Lieutenant Kimberly Motto searched § 87(2)(b) in Manhattan.

It is undisputed that ESU officers entered Aptartmen.3G and removed all of its civilian occupants. The occupants were subsequently transported to the 26th Precinct stationhouse, leaving the apartment empty. Officers remained at the apartment afterwards to secure it in the civilians' absence.

Lieutenant Motto stated that once the civilians were removed from the apartment, Deputy Inspector Shugrue directed Police Officer Shahzeb Ahmed of PSA 6 to secure § 87(2)(b) by preventing anybody from entering or exiting the apartment unless they obtained a search warrant first. Despite this command, however, Lieutenant Motto entered the apartment. She explained that she did so because one of the apartment's windows looked out onto an overhang on the side of the building. She shined a flashlight out the window and onto the overhang to check if any of the civilians had discarded a firearm from inside the apartment by throwing it down onto the overhang. She did not see any firearms on the overhang. Lieutenant Motto did not take any other actions inside the apartment besides checking the overhang with her flashlight.

Deputy Inspector Shugrue stated that he ordered Lieutenant Motto, not Police Officer Ahmed, to guard the apartment until NYCHA could repair the damage to the front door. He did not see any officers enter the apartment after that point. At some point later in the evening, however, Lieutenant Motto informed Deputy Inspector Shugrue that she had entered the apartment to look for a firearm on the apartment's windowsill. Deputy Inspector Shugrue denied having instructed Lieutenant Motto to do this. He was not aware of any other officers entering the apartment.

Neither Police Officer Martinez nor Police Officer Joachim were aware of any officers entering § 87(2)(b) after the civilians were extracted.

Officers may conduct a warrantless entry of a private residence to address emergency situation that presents an immediate danger to life or property. This exception to the general warrant requirement is "narrowly construed" and places the burden of justifying such an entry on the officers involved. It does not apply in situations where, after conducting an investigation, the police fail to establish the presence of an emergency situation. People v. Mormon, 100 A.D.3d 782 (App. Term, 2nd Dept., 2012) (Board Review #17).

§ 87(2)(g)

Allegation (L) Abuse of Authority: At the 26th Precinct stationhouse, Police Officer Nikaurys Martinez refused to provide his shield number to § 87(2)(b)

In his sworn statement, § 87(2)(b) stated that after he arrived at the 26th Precinct stationhouse, he was separated from the other civilians and placed in a holding cell. Two officers stood in front of his cell. The investigation identified one of them as Police Officer Martinez. § 87(2)(b) asked both of the officers for their shield numbers. Police Officer Martinez ignored the request. He did not ultimately provide his shield number to § 87(2)(b).

During a follow-up telephone statement, § 87(2)(b) initially stated that he asked multiple officers for their shield numbers. When asked to specify which officers he made the requests to, § 87(2)(b) denied that Police Officer Martinez was one of them. Later in the statement, however, he stated that he did ask Police Officer Martinez for his shield number.

None of the other civilians mentioned § 87(2)(b) asking any officers for their shield numbers.

Police Officer Martinez stated that he monitored the civilians in their holding cells while they were held in custody at the 26th Precinct stationhouse. He denied that the civilians asked him or any other officers for their shield numbers. He denied that he refused to provide his shield number to any of the civilians.

None of the other officers who were interviewed heard a civilian ask Police Officer Martinez for his shield number. They were not aware of any officers refusing to provide their shield numbers to a civilian.

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Allegation (M) Abuse of Authority: At the 26th Precinct stationhouse, an officer refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after he arrived at the 26th Precinct stationhouse, he was placed in a holding cell. Two officers stood in front of his cell. The investigation identified one of them as Police Officer Martinez, but did not identify the other officer. This officer also ignored § 87(2)(b)'s request for his shield number. He did not provide his shield number to § 87(2)(b) at any point.

§ 87(2)(b) consistently described this male across statements as a white male in his 20s with blond hair. He did not know the officer's name. In his sworn statement, § 87(2)(b) stated this officer was one of the officers who entered § 87(2)(b) removed him from the apartment and placed him in handcuffs. The investigation identified these officers as ESU officers. He did not state which officer transported him to the 26th Precinct stationhouse. When he was lodged in a holding cell, this officer stood in front of the cell with Police Officer Martinez.

In his telephone statement, § 87(2)(b) did not recall if this officer handcuffed him. He stated that this officer transported him to the stationhouse with Police Officer Martinez. The three of them rode in a marked sedan. § 87(2)(b) initially denied that he asked either this officer or Police Officer Martinez for their shield numbers. He later stated that he asked numerous officers for their shield numbers throughout the incident, and was uncertain if this officer was one of them. Later, when directly asked if he could identify specific officers he asked for their shield numbers or specific instances where he asked officers for their shield numbers, § 87(2)(b) stated that he asked Police Officer Martinez and this officer. He did not specify when he made the request. He did not identify any other officers who he asked to provide their shield numbers.

Police Officer Martinez denied hearing § 87(2)(b) request any officer's shield number during the incident. He followed the six civilians to the 26th Precinct stationhouse, but he denied that he transported any of them. Police Officer Martinez rode to the stationhouse in a marked SUV. He was partnered with Police Officer Daniela Rizzo, a white female, at the time, but she did not ride with him in the SUV. He was accompanied by Lieutenant Okelie Bentley, a black male. No one else rode with them. Police Officer Martinez watched the civilians in their holding cells at the stationhouse. He was accompanied by another officer, but he did not recall who that officer was.

Due to the nature of the incident, a large number of officers from multiple commands, including both PSA 6 and the 26th Precinct, responded to § 87(2)(b). Several of these officers were identified by cross-referencing unit information from the ICAD event with the PSA 6 and 26th Precinct roll calls (Board Review #21-22). Additional officers were identified via BWC footage (Board Review #1-6). Still more officers were identified by name by other officers during their CCRB interviews. In total, seventeen officers were identified in this manner. Since § 87(2)(b) alleged that the subject officer was a white male, this list was then narrowed down to a list of nine officers who were either white or Hispanic males. This list included Police Officer Martinez. On November 15, 2019, § 87(2)(b) conducted a photo viewing with § 87(2)(b) recognized Police Officer Martinez, identifying him as one of the officers who transported him to the stationhouse. He did not recognize any of the other officers' photographs (Board Review #10-12).

§ 87(2)(g)

§ 87(2)(b) also provided differing statements regarding the subject officer's role in the incident. He initially identified the officer as the officer who entered the apartment and handcuffed him.

§ 87(2)(g)

He later identified the subject officer as the officer who accompanied Police Officer Martinez in transporting him to the stationhouse. Police Officer Martinez, however, denied that he transported any of the civilians. He also stated that he rode to the stationhouse in an SUV, not a sedan, and that he was working with Lt. Bentley, an officer who does not match § 87(2)(b)'s description.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one previous CCRB complaint and has been named as a victim in one previous allegation (Board Review #19):
 - § 87(2)(b)
- § 87(2)(b) and § 87(2)(b) have both been party to one previous CCRB complaint. Neither was named as a victim.
- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party to (Board Review #19).
- Deputy Inspector Shugrue has been a member of the service for 21 years and this is the first CCRB complaint to which he has been a subject.
- Lieutenant Motto has been a member of the service for 15 years and has been the subject of one previous CCRB complaint and two allegations, one of which was substantiated.
 - 201102808 involved a substantiated allegation of vehicle search. The Board recommended that she receive charges. The NYPD imposed instructions.
 - § 87(2)(g)
- Police Officer Martinez has been a member of the service for seven years and has been the subject of one previous CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- A Notice of Claim request was submitted to the NYC Office of the Comptroller on December 2, 2019. The results will be included in the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

A horizontal bar chart with the title 'U.S. should take action to address climate change'. The y-axis lists six demographic groups: Male, Female, 18-29, 30-49, 50-64, and 65+. The x-axis represents the percentage, ranging from 0 to 100 in increments of 20. Each group has a black bar representing the percentage of respondents who believe the U.S. should take action. The percentages are: Male (92%), Female (98%), 18-29 (93%), 30-49 (95%), 50-64 (96%), and 65+ (80%).

Demographic Group	Percentage (%)
Male	92
Female	98
18-29	93
30-49	95
50-64	96
65+	80

Squad No.: _____

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____